

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

NATIONAL LABOR RELATIONS BOARD
Applicant

v.

Civil No. 1:22-cv-11215

MPSTAR PROFESSIONALS, LLC
Respondent

APPLICATION FOR ORDER ENFORCING
SUBPOENA DUCES TECUM

The National Labor Relations Board, an administrative agency of the Federal Government, applies to this Court for an order compelling compliance with a subpoena duces tecum that the Board issued and served on Respondent MPStar Professionals, LLC. This application is made under Section 11(2) of the National Labor Relations Act, as amended (29 U.S.C. Section 151 et seq.), herein the Act. In support of this application, the Board states as follows:

- a) This Court has jurisdiction of the subject matter of the proceeding, and of Respondent, by virtue of Section 11(2) of the Act (29 U.S.C. Section 161(2)). The subpoena was issued within this judicial district and Respondent is a domestic corporation chartered under the laws of the United States and licensed to do business in the State of New York, with offices at 1710 Andrews Avenue, #1H, Bronx, NY, 10453 and 10440 Queens BL, 19J, Forest Hills, NY 11375.¹ Respondent is engaged in business in this district.
- b) This application arises as a result of events in unfair labor practice proceedings currently pending before the Board pursuant to Section 10(b) of the Act. The Board process leading

¹ At issue herein is a single subpoena that was served on the Keeper of Records of MPStar Professionals, LLC at two separate addresses.

to those proceedings began with a charge filed by Erika Contreras and Tatiana Quintero in Case 01-CA-291402, which alleged that Respondent violated the Act. A copy of the charge is attached as **Exhibit 1**. The charge was prepared, filed, and served consistent with the requirements of Section 10(b) of the Act and of 29 C.F.R. Sections 102.9, 102.10, 102.15, and 102.20 of the Board's Rules and Regulations. These Rules and Regulations have been issued pursuant to Section 6 of the Act (29 U.S.C. Section 156) and have been published in the Federal Register (24 F.R. 9095), pursuant to the Administrative Procedure Act (5 U.S.C. Section 552). See 29 C.F.R. Section 102. This court may take judicial notice of the Board's Rules and Regulations under 44 U.S.C. Section 1507.

- c) In order to complete its administrative investigation, a representative of the General Counsel made a written request for and received a subpoena duces tecum from the Board. On June 17, 2022, a representative of the General Counsel issued subpoena duces tecum B-1-1GA4RGR, directing Respondent's Keeper of Records to appear before a Board agent on July 11, 2020 at 11:00 a.m. at the Regional office, located at the Thomas P. O'Neill Federal Building, 10 Causeway Street, Room 601, Boston, MA 02222-1001, and to bring certain documents specified in the attachment to the subpoena. A copy of the subpoena is attached as **Exhibit 2**. The issuance of this subpoena is consistent with the requirements of Section 11(1) of the Act and Section 102.31(a) of the Board's Rules and Regulations.
- d) The subpoena described above was served on Respondent's Keeper of Records by sending it via certified mail Respondent at 1710 Andrews Avenue, #1H, Bronx, NY, 10453 and 10440 Queens BL 19J, Forest Hills, NY 11375. Although the Region did not receive signed certified mail receipts indicating when the subpoena was delivered to the two addresses, using the tracking numbers, it was able to confirm using USPS Tracking that the subpoena

was delivered to the Bronx, NY address at 3:22 p.m. on June 25, 2022, and to the Forest Hills, NY address at 1:56 pm on June 25, 2022. Copies of the USPS Tracking receipts are attached as **Exhibits 3(a) and 3(b)**. Service and receipt complied with Section 11(4) of the Act and Section 102.113 of the Board's Rules and Regulations. 29 C.F.R. Section 102.113.

- e) Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations provide for a period of 5 days after service of a subpoena within which any person served may petition the Board to revoke the subpoena. To date, Respondent has not filed a petition to revoke the subpoena.
- f) Respondent's refusal to respond to the subpoena and its failure to provide the documents and information called for by the subpoena in the proceeding before the Board constitutes contumacious conduct within the meaning of Section 11(2) of the Act. Furthermore, Respondent's conduct has impeded and continues to impede the unfair labor practice proceedings before the Board and is preventing the Board from carrying out its duties and functions under the Act.

In view of Respondent's contumacious conduct, the Board requests:

1. That an order to show cause issue directing Respondent's Keeper of Records, who upon information and belief is Christian Perez (hereinafter Perez), to appear before this Court on a date specified in the order and to show cause why an order should not issue directing him to appear before Attorneys Emily Goldman and Colleen Fleming in Board Case 01-CA-291402 at such time and place as they may designate and to provide all the documents and information called for in the subpoena previously issued in connection with this case;

2. After considering arguments in response to the order to show cause, that this Court issue an order requiring Perez to appear before Board agent Emily Goldman or Colleen Fleming, at a time and place to be fixed by Attorney Goldman, and to provide all the documents and information called for in the subpoena previously issued in connection with this case; and
3. That the applicant, National Labor Relations Board, have such other and further relief as may be necessary and appropriate.

Dated:

National Labor Relations Board

By: Jennifer Abruzzo, General Counsel
Thomas E. Quigley, Regional Attorney
Emily G. Goldman, Attorney BBO # 630568
Colleen Fleming, Attorney

/s/ Emily G. Goldman

/s/ Colleen Fleming

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